

**LODI CITY COUNCIL
SPECIAL JOINT CITY COUNCIL MEETING
WITH THE REDEVELOPMENT AGENCY
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 29, 2006**

A. CALL TO ORDER / ROLL CALL

The Special Joint City Council meeting with the Redevelopment Agency of March 29, 2006, was called to order by Chairperson Hitchcock at 6:35 p.m.

Present: Members – Beckman, Hansen, Johnson, Mounce, and Chairperson Hitchcock

Absent: Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. REGULAR CALENDAR

- B-1 “Joint Meeting of the Lodi City Council and Redevelopment Agency to discuss and provide direction to staff regarding introduction of ordinances to limit Lodi’s use of eminent domain (through the City of Lodi or the Redevelopment Agency) to acquisition property that will be put to a municipal use”

City Attorney Schwabauer recalled that Council had directed him to bring a draft ordinance forward to address the situation that arose by the Supreme Court’s decision in the case of *Kelo versus the City of New London*. The Supreme Court ruled that the constitution does not prohibit the State from taking property for a development use that would be for the benefit of a business owner who would also operate for the benefit of the community which accrues from the redevelopment itself and from the rebirth of the area. Senator McClintock initiated State Constitutional Amendment 15 (SCA 15). When it was introduced, it provided that eminent domain could not be used to acquire property and turn it over to a private party. It said that if property were ever sold to a private party after being acquired by eminent domain, it would have to be turned over to the original purchaser at the lesser of the acquisition price or its current market value. It also prohibited turning over of the property to a private nonprofit corporation. SCA 15 has been amended and now requires the property to be turned over to the original property owner at its current fair market value. It now allows property to be condemned and rented or leased to a 501c3. Mr. Schwabauer proposed a change to include a minimum time requirement by which the governmental entity has to operate and, if it exceeds that amount, then the passage of time can allow the governmental entity to change its mind about what it might do. Mr. Schwabauer explained that Council has been presented with two ordinances, one controlling City Council’s action and one controlling Redevelopment Agency action. He advised Council that it would need to include in its motion whether or not to have language that would restore SCA 15 to its original reading that would allow the property to go back to its current or acquired value and the timeframe within which the reacquisition right would lapse.

Council Member Beckman felt that a ten-year period would be a good timeframe, if at some point the original owner is going to have the option of repurchasing it, because the property is no longer being used for a public purpose. He preferred that they be able to repurchase it at the cost the government paid them for it.

Council Member Mounce felt that it should be a 20-year period and she agreed with Mr. Beckman that the repurchase price should be what the government paid for the property.

Council Member Hansen voiced support for the proposed ordinances.

Mayor Pro Tempore Johnson expressed his opinion that there are times when eminent domain condemnation for private purposes can make sense and be advantageous to all concerned. He believed that when a municipality proceeds with condemnation it usually pays well over the asking price for the property. Mr. Johnson was opposed to the proposed ordinances, as he did not want Council’s “hands tied” by putting a law in place that constrains it from taking what may be the best course of action.

Mayor Hitchcock agreed with Mr. Johnson's statements. She felt that there may be a possibility in the future (especially because of the City's aging infrastructure) where eminent domain should be used. She contended that to give up the tool that eminent domain provides would be a disservice to the community. She noted that there are certain situations where property owners prefer eminent domain because it results in tax savings for them.

PUBLIC COMMENTS:

- Eunice Friederich stated that in larger cities there have been abuses of redevelopment and the use of eminent domain, and she noted that Lodi is growing. She believed that most people were afraid of government and do not have adequate financial resources to engage in legal battles with cities.
- Barbara Flockhart pointed out that money derived from redevelopment must be paid back with interest. Some cities are finding it difficult to pay back, even the interest alone, on the money they borrowed. She was opposed to the use of eminent domain.

MOTION:

Council Member Beckman made a motion, Mounce second, to introduce the following ordinances, with language amendments to both as shown below:

"(b) If any property taken through eminent domain after the effective date of this Ordinance ceases to be used for the stated public use, within **ten** years of its original acquisition, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the property **at the original purchase price or fair market value of the property, whichever is lesser**, before the property may be otherwise sold or transferred."

- Ordinance No. 1775 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 15 – Buildings and Construction – of the Lodi Municipal Code by Adding Chapter 15.72 Relating to Eminent Domain"; and
- Ordinance No. 1776 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 2 – Personnel and Administration – of the Lodi Municipal Code by Adding Chapter 2.52.020 Relating to Eminent Domain."

DISCUSSION:

Mayor Hitchcock warned that if the City invested a lot of money in properties the reacquisition language as proposed would strip the City of its investments.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Mounce

Noes: Council Members – Johnson and Mayor Hitchcock

Absent: Council Members – None

C. ADJOURNMENT

There being no further business to come before the Redevelopment Agency, the meeting was adjourned at 7:14 p.m.

ATTEST:

Susan J. Blackston
City Clerk / Secretary
Redevelopment Agency